

HB 1088 -- COLLECTION OF DELINQUENT TAXES

SPONSOR: Windham

This bill amends the laws regarding the collection of delinquent taxes.

Counties may now elect to operate under the Sections 141.210 to 141.810 wholly by adopting a resolution or order, or partially by adopting a resolution or order for any parcel or parcels which have back taxes for at least two years from the date on which the taxes became delinquent. No county eligible to establish a land bank under Section 140.981 can be a partial opt-in county unless it first elects to establish a land bank agency as provided in Section 141.981.

For partial opt-in counties, the collector will decide which tax-delinquent parcels will proceed under the land tax collection laws and which will proceed under other laws.

A collector may prohibit a prospective bidder from participating in a sale for failure to comply with any of the provisions governing a sale for delinquent taxes.

A purchaser at any sale after the third offering of a parcel, whether by the collector or a trustee as provided in Section 140.260, may elect to proceed under different sections as set out in the bill, by giving notice to the collector prior to the issuance of a collector's deed.

The bill requires a land bank agency purchaser to pay only the amount of its bid that exceeds the amount of the tax bill including the judgment, interest, penalties, attorney's fees, taxes, and costs due.

If no person redeems a parcel of land within the time allowed by law, upon proof that a purchaser is authorized to receive the deed, any person or entity having any type of claim, lien, or interest in the land will be barred and foreclosed from asserting it.

The definition of "county" for purposes of Sections 141.980 to 141.1015 "The Chapter 140 Land Bank Act" is changed to all counties, and a definition of "municipality" is now added.

St. Louis County is authorized to establish a land bank agency by ordinance, resolution, or rule. No county that has established a land bank agency under Sections 141.980 to 141.1015, "The Chapter 141 Municipal Land Bank Act", can establish one under Section 140.980. Any municipality with more than 1500 inhabitants that is

not located in a county that is authorized to establish a land bank agency under Section 140.981 may itself establish a land bank agency.

The bill sets out the requirements for the board of directors of a land bank agency established by a county under Section 140.981.

The bill specifies what an ordinance, resolution, or rule must specify if a municipality establishes a land bank agency under Section 140.981.

A provision is repealed stating that a contract or instrument signed by both the executive director and one other officer of a land bank agency, in person or by facsimile, is deemed properly executed.

When a land bank agency acquires title to a parcel of real estate, all taxes, special taxes, fines, and fees attached to the real estate are deemed satisfied.

A land bank agency cannot acquire property located wholly or partially outside the boundaries of the city or county that establishes the land bank agency.

The bill adds a foreclosure sale under Section 141.550 to the list of sections under which a land bank agency can acquire property.

The bill sets out how a land bank agency's excess bid amounts must be paid out under various provisions of law.

Whether a parcel was acquired by the land bank agency through judicial foreclosure, nonjudicial foreclosure, donation, or some other matter must now be added to the inventory and history information that is required on a land bank agency's website.

The bill repeals a provision that provides that a land bank agency will only accept written offers equal to or greater than the full amount of a tax bill, interest, attorney's fees, and costs on the property. It also repeals provisions that detail how the proceeds from the sale of an ancillary parcel is distributed and how a land bank agency can reduce the price on certain parcels in a single city block and advertise the price reduction.

Currently, a contract for the sale of residential property owned by the land bank agency requires the buyer to agree to own the property for three years or be civilly liable to the land bank for an amount equal to twice the sale price. The bill repeals this provision and gives the land bank authority to determine if a buyer has property with taxes delinquent.

A land bank agency can make it a condition of sale that a property owner or the property owner's successor make certain improvements to the property. If the improvements are not made, the land bank can sue for damages for the breach and seek a judicial foreclosure in which the property would go back to the land bank. As an alternative or in addition to a judicial foreclosure the land bank agency may gift the right to foreclose on the property to a nonprofit organization or exercise the right of reentry. Title will be conveyed by recording the judgment with the recorder of deeds.

If a county has established a land bank under Section 140.981, the collector can collect a fee up to 5% on all amounts collected, and the fee will be added to the tax bill.

If a land bank agency is performance audited, it must make copies of the audit available to the public and it must post it to its website within 30 days of its completion.

A land bank agency can issue bonds with the approval of the county or municipality that created it. The details of the bond requirements and how it may be secured are set out in the bill. The bonds will not be deemed an indebtedness for purposes of the Constitutional or statutory limit on incurring indebtedness. Neither the members of the board or any person executing a bond shall be personally liable on the bond. Bonds issued by a bank must be authorized by the board, with other requirements set out in the bill. A political subdivision may decide to guarantee, insure, or otherwise become primarily or secondarily obligated with respect to the bonds issued by a land bank agency. The bonds issued by a land bank agency are negotiable instruments under Chapter 400, and all income or interest thereon is exempt from state taxes, except estate and transfer taxes.

Members of the board are added to a provision which prohibits land bank employees from benefiting from or owning land bank property.

The bill repeals a provision that provides that any real property acquired by a dissolved land bank in certain land sales will be held by a city in trust for the tax bill owners and taxing authorities as their interests appear in the judgment of foreclosure.

The definition of "county" for purposes of Sections 141.210 - 141.810 and Sections 141.980 to 141.1015 (collectively, the land tax collection law) is changed from charter counties and certain first class counties (currently only Buchanan County) to all counties, and the definition of "municipality" is changed from cities of 2,500 inhabitants in charter and first classification

counties to all cities in all counties. An "interested party" is now defined.

The collector has the option of appointing a delinquent land tax attorney to be compensated as necessary for performing the collector's duties. The appointed delinquent land tax attorney may appoint assistant attorneys to be compensated as necessary. The collector may pay an appointed delinquent land tax clerk what compensation is deemed necessary, rather than a set fee.

What parties should be named in a petition for foreclosure of a tax lien are set out in the bill, as well as what other information the petition must contain. Online publication is authorized.

The collector must send a copy of the petition by first-class mail to the occupant of the parcel or property which has delinquent taxes. The collector also must send a copy of the judgment of foreclosure, by first class mail, within 30 days of the date of the judgment.

The collector must make the following searches, the charge for which can be recovered from the proceeds of the sale:

- (1) A title search, not later than 120 days prior to the sale;
- (2) The following records, for interested parties and addresses reasonably calculated to apprise interested parties of the suit:
  - (a) Land title records in the county recorder of deeds office;
  - (b) Tax records in the office of the local treasurer;
  - (c) Tax records in the office of the local assessor;
  - (d) Court records in Missouri CaseNet; and
  - (e) For a business entity, records filed with the Secretary of State.

No later than 30 days prior to the sale, the collector must send notice of the sale to all interested parties at the address most reasonably apprised to provide notice of the sale. The notice must provide the date, time, and place of the sale, and must state that the property may be redeemed prior to the sale.

No later than 20 days prior to the sale, the sheriff must post notice of the sale of the size and in the manner set out in the bill. The sheriff also must attempt in-person notice.

Additional changes to the land tax collection law include:

(1) Changing the laws regarding taxes and penalties for properties subject to certain actions as abandoned property in Jackson County. Currently, a provision allows a court in Jackson County to stay the tax foreclosure sale of property that is the subject of an action for temporary possession for rehabilitation if the party filing the action pays into the court all of the principal land taxes owed. The bill expands this provision to all counties;

(2) Currently, Section 141.540 sets forth the procedure a sheriff must follow when advertising for and selling real property ordered sold pursuant to a judgment of foreclosure by a court under the land tax collection law. The bill allows online publication of the sale and repeals almost all other provisions of the Section dealing with duties of the county collector related to the sale;

(3) Currently, Section 141.550 deals with the conduct of sale, the sheriff's return of service, and the sheriff's deed in Kansas City. The bill adds Sections 141.980 to 141.1015 to the jurisdiction of the Section, removes the limitation to Kansas City, gives the place and time of the sale for partial opt-in counties, and specifies what amounts the winning bid must include. Also, foreign and domestic corporations or limited liability companies that do not have a registered agent under state law are not allowed to buy property from a land bank, nor are foreign corporate entities that do not have a certificate of authority to transact business in the state. The official conducting the sale may require an affidavit from the buyer that he or she meets the requirements for purchasers;

(4) Clarifying that Section 141.560 applies to municipalities that have established a land bank under other pertinent sections or are in counties that have established a land bank, and removing the requirement that a land trust must include certain other costs when a parcel is sold by the land trust;

(5) Modifying the language regarding the title to any real estate that is vested to a purchaser;

(6) Establishing a six-month time limit during which a court should confirm or set aside a foreclosure sale, clarifying who should receive notice of a hearing, and providing what the judgment should state. Section 141.580 will not apply to sales of land to land bank agencies. In partial opt-in counties, funds remaining after the sale and after the distribution as required by law, will be given to the County School Fund. Counties operating under the land tax collection law can elect to establish a fund for the purpose of defending against claims challenging the sufficiency of

the notice provided. An interested party other than the purchaser must pay into the court the redemption amount prior to a hearing;

(7) Repealing the part of Section 141.610 that provides that one year after a foreclosure sale it will be conclusively presumed that everything was done correctly, and no suit to set aside a deed will be commenced or maintained unless it is filed within one year from the date of sale;

(8) Providing that Section 141.680 does not apply to partial opt-in counties; and

(9) Limiting the applicability of Section 141.700, establishing a land trust, to counties electing to operate under Sections 141.210 to 141.810 prior to January 1, 2024;

In partial opt-in counties, the bill provides for the establishment and make-up of a land trust, the governing board, and the board's duties and responsibilities.

The bill designates Sections 141.980 - 141.1015 as the "Chapter 141 Municipal Land Bank Act", deletes its limited applicability to municipalities located wholly or partially in counties with a land trust as of January 1, 2012, makes it applicable to counties electing to operate wholly under Sections 141.420 to 141.810, repeals the provision limiting sales made to a single entity to five contiguous parcels per year, and prohibits municipalities in partial opt-in counties from establishing land bank agencies under Section 141.980.

The bill also adds publication online as a permissible means of petition service in a quiet title action, as well as any other method as may be required by prevailing notions of due process.

This bill provides that a lien placed upon property for unpaid sewer charges, once publicly recorded, has the same priority as taxes levied for state or county purposes.

The bill repeals Sections 141.820 to 141.970 dealing with collection of delinquent taxes in the City of St. Louis.