

HCS HB 2065 -- COLLECTION OF DELINQUENT TAXES (Owen)

COMMITTEE OF ORIGIN: Standing Committee on Local Government

Currently, Section 140.980 to 140.1015, RSMo, is referred to as the "Land Bank Act". This bill changes the name to the "Chapter 140 Land Bank Act" and expands the list of cities authorized to establish a land bank agency to include any city with 1,500 or more inhabitants except in certain noncharter counties and certain charter counties (Sections 140.980 and 140.981).

Many sections in the Chapter 140 Land Bank Act are amended to include a reference to counties.

The duration of time a land bank agency has to sell property or put it to productive use is increased from two to five years. The duration a land bank agency has to sell, clear, or put property to public use is eight years (Section 140.986).

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 requires a buyer to demonstrate that the buyer does not have a property in the land bank's jurisdiction with taxes delinquent for more than one year, is not in violation of any municipal building or housing code, and is not the original owner of the property or a relative of the original owners within the second degree of consanguinity (Section 140.987).

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 (Section 140.987).

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 (Section 140.987).

A land bank agency can receive funding through gifts from any source provided that the agency does not sell or otherwise transfer

any property held by it to the entity from which it received the gift (Section 140.988).

A county that has established a land bank agency may collect a fee for the collection of delinquent and back taxes in an amount up to 5% of all sums collected, which fees must be paid to the land bank agency (Section 140.988).

A land bank agency is authorized to receive funds from bonds issued by the county or municipality creating the land bank agency. These bonds will not be deemed an indebtedness within the meaning of any Constitutional or statutory limitation upon incurring indebtedness. The bonds must be authorized by a resolution of the governing body of the county or municipality establishing the land bank agency, which may also issue refunding bonds. The bonds are negotiable instruments under Chapter 400. The bonds and all income or interest thereon are exempt from all State taxes. Temporary notes are also authorized (Section 140.994).

A land bank agency may rent or lease property held by the land bank agency for community, noncommercial agricultural uses (Section 140.995).

Members of the board are added to a provision which prohibits land bank employees from benefiting from or owning land bank property. For this provision, persons who are related to board members or employees within the second degree of consanguinity or affinity are considered board members or employees (Section 140.1000).

A land bank agency must be dissolved no sooner than 60 calendar days but no later than 180 calendar days after an ordinance or resolution for its dissolution is passed by the county or municipality that established the land bank agency. Once all outstanding bonds, notes, and other obligations are satisfied, no new property can be acquired by the land bank agency. No additional debts can be incurred unless necessary to sell property or put to public use. The land bank agency must be dissolved within 30 days after all outstanding bonds, notes, and other obligations are satisfied (Section 140.1012).

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 (Section 141.220).

Counties may now elect to operate under 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 (Section 141.230).

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 (Section 141.290).

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 (Sections 141.320 and 141.330).

A petition for foreclosure of a tax lien must name each person with a legal interest in the land affected, as discoverable by the collector from publicly available records, and must contain certain information specified in the bill (Section 141.410).

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 (Section 141.440).

In partial opt-in counties, 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. The charge for these items can be recovered from the proceeds of the sale

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. The charge for this item can be recovered from the proceeds of 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. The charge for these items can be recovered from the proceeds of the sale (Section 141.520).

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 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 agency under other pertinent sections or are in counties that have established a land bank agency, 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 (Section 141.570);

(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, 2025;

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 (Section 141.821).

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 adds that any other method as may be required by prevailing notions of due process is a permissible means of petition service in a quiet title action (Section 141.1009).

This bill provides that a lien placed upon a property for unpaid sewer charges, once publicly and properly recorded, has higher priority than all liens except taxes levied under Section 141.821 for State or county purposes (Section 249.255).

The bill repeals Section 140.1006, and Sections 141.820 to 141.970 dealing with collection of delinquent taxes in the City of St. Louis.